

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No. 1074 of 2002
In
SPECIAL CIVIL APPLICATION No. 385 of 2001
With
CIVIL APPLICATION No. 1465 of 2002
In
LETTERS PATENT APPEAL No. 1074 of 2002

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG
HON'BLE MR.JUSTICE RAVI R.TRIPATHI

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- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
 - 2 To be referred to the Reporter or not ?
 - 3 Whether their Lordships wish to see the fair copy of the judgment ?
 - 4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
 - 5 Whether it is to be circulated to the civil judge ?
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VASTAJI HAJURJI THAKORE - Appellant(s)
Versus
CONSERVATOR OF FORESTS - Defendant(s)

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Appearance :

MR PH PATHAK for Appellant

MS. PAUROMI SHETH, AGP for Respondent

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CORAM :HONOURABLE MR.JUSTICE R.S.GARG
HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date : 12/07/2005

COMMON ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE R.S.GARG)

1.After taking us to the merits of the matter and making a submission that in light of the latest judgment of the Supreme Court, the learned Single Judge was required to look into the facts that whether particular units of the Forest Department were industry or not, the learned counsel for the appellant also submitted that the learned Single Judge simply issued notice, but did not issue Rule and without appreciating the same, passed the final order in the matter against the interest of the present appellant.

2.Learned counsel for the State, after going through the original records of the Special Civil Application No. 385 of 2001 though submitted that the order passed by the learned Single Judge was absolutely justified, but was unable to say that Rule was ever issued.

3. Taking into consideration that simply a notice was issued to the present appellant and thereafter the matter was not admitted for hearing nor any notice was issued to him after admission for final hearing, in our considered opinion, the learned Single Judge could not proceed to decide the matter finally. Even otherwise, we are in agreement with Mr. Pathak that in light of the latest

judgment of the Supreme Court, the matter is required to be reconsidered by the learned Single Judge. The judgment dated 2.5.2001 is set aside and the matter is remanded back with a request to the learned Single Judge to give appropriate opportunity of hearing to the parties and decide the matter afresh after taking into consideration the latest judgment of the Supreme Court relating to the interpretation of the word 'industry' as made by the Supreme Court. The appeal is allowed. Consequently, Civil Application stands disposed of.

4. Letters Patent Appeal No. 1488 of 2001 is at all not related with this matter, therefore, we are not passing any order in the said Letters Patent Appeal.

[R.S. GARG, J.]

[RAVI R. TRIPATHI, J.]

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